

Cindy L. Nugent-Davi
5749 Arrow Tree Street
Las Vegas, NV. 89130
In Proper Person

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DISTRICT OF NEVADA

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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

BY _____ DEPUTY
Case No.

CINDY L. NUGENT-DAVI

Plaintiff,

VS.

2:09-cv-01921-LRH-PAL

CLARK COUNTY, a County existing under the
laws of the State of Nevada;; THE LAS VEGAS
METROPOLITAN POLICE DEPARTMENT
DOE OFFICERS I through X,
individually, and in their official capacity;
DOES XI through XX, inclusive

**MOTION FOR INJUNCTION RATIONALE TO
RESTORE THE "STATUS QUO ANTE LITEM"
OF PLAINTIFF'S PERSONAL AND MEDICAL
RECORD, PRIOR TO 10/11/2007 AND 10/12/2007**

Defendant(s),

Representing the Defendant(s) of
Las Vegas Metropolitan Police Department

ARE: FOX ROTHSCHILD, LLP.
Attorney: Lisa J. Zastrow
Attorney: Lyssa S. Anderson
3800 Howard Hughes Parkway
5TH Floor
Las Vegas, NV. 89169

And Representing now the Defendant(s) of
Clark County

ARE: DAVID ROGER
District Attorney
CIVIL DIVISION
By: Stephanie A. Barker
Chief Deputy District Attorney
500 South Grand Central Pkwy.
P. O. Box 552215
Las Vegas, Nevada 89155-2215

**MOTION FOR INJUNCTION RATIONALE TO RESTORE THE
"STATUS QUO ANTE LITEM" OF PLAINTIFF'S PERSONAL AND MEDICAL RECORD,
PRIOR TO 10/11/2007 AND 10/12/2007**

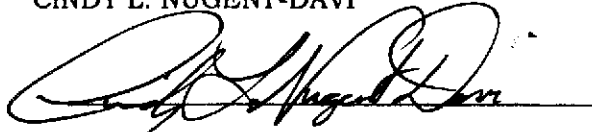
Plaintiff, in Proper Person, puts forth, "Motion for INJUNCTION RATIONALE TO RESTORE

THE "STATUS QUO ANTE LITEM" OF PLAINTIFF'S PERSONAL AND MEDICAL RECORD PRIOR TO THE 10/11/2007 and 10/12/2007 EVENTS" for a form of Relief, the Memorandum of Points and Authorities attached hereto, and a Affidavit by Plaintiff, marked as Exhibit #1, attached hereto. The Affidavit expresses and describes the "unnecessary irreparable harms" of the prior actions by Defendant(s) have caused and "continues" to cause. Plaintiff has shown evidence prior that can effectively support these facts. "Status Quo Ante Litem" needs and must be restored in order for Plaintiff to obtain at least the "basics" of freedoms and to prevent further harm to those freedoms and her "overall physical, well-being" that she had before prior 10/11 and 10/12/2007. Plaintiff requests the court to do such relief because Plaintiff's "physical freedoms is/are and have been at stake". Plaintiff puts forth these requests under Fed. Civil Rules 65 (1) and 56 (2).

Respectfully,

DATED this 4th day of May, 2010

CINDY L. NUGENT-DAVI



CINDY L. NUGENT-DAVI,

PLAINTIFF,

In Proper Person
5749 Arrow Tree Street
Las Vegas, NV. 89130-7278
Phone #702-502-0474

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

This, "continuing problem" with "RECORDS" is one of "many" reasons why the Plaintiff had "NO CHOICE" but to file the "1983", because Defendant(s) refused to remove what is NOT TRUE from her records and that "falsifications" and "sever inaccuracies were either put there by mode of "Medical Staff of their employ, attachment and/or sub-contracted by "UMC Hospital" or by "Law

Enforcement ". These "statements/comments" on Medical Record bear "NO TRUTH, and PROVED to be UNTRUE" AT HOSPITAL ON 10/12/2007 and after. "Those words expressed on record" create a "recurring/ongoing" problem for the Plaintiff to obtain "proper, **desperately NEEDED** Health Care "as a whole and creates "NO CHANCE" for employment ever, either. Prior to the EVENTS that took place 10/11/2007 and 10/12/2007, Plaintiff's Medical Record had NO ALLEGATIONS, COMMENTS OR FACTUAL STATEMENTS on it, to lead anyone to "speculate" or to be lead to believe that the Plaintiff had "**ANY** drug or alcohol problems-what so ever" and nor did she. Furthermore, Plaintiff has put forth this Motion because these "false light" items'/comments" on her records' have "no merit". They have caused nothing less than "irreparable harm, continually". She is "beleaguered" by problems, both by "entities separate and entities that are within "control" of the Defendant(s), stemming "directly" from the "severe inaccuracies" that has been applied her record(s). Plaintiff is "obstructed" from having freedoms and liberties, and is "blocked" her from her obligations and responsibilities to her family, continued damage to her reputation, as well as jeopardizes/risks the lives of her and her unborn child in Hospital/ Emergency Room situations, both currently and future, where "REAL FACTS" are "critical".

The "Battery-Domestic Violence" Charge(s) that appeared on her Police Scope Record, "clearly" back dated", added sometime between 11/ 2008 and 11/2009 need to be removed immediately as well. Plaintiff has establish prior and within to the fact that the were added later. No legal actions, rules of criminal procedures, proceedings, pendings or "due process" was ever given in "so said charge(s)". "Battery-Domestic Violence" on Plaintiff's Record, especially put there with "no merit" what so ever "cause" and will "continually cause" further malice, detriment, suspicion, unwarranted interrogations, investigations and inquires affecting "Plaintiff's Rights" and her "immediate family's Rights" (son and unborn child) as a "whole" which is another reason for the need of expeditious removal. Plaintiff cannot gain ANY employment with "the FALSE "Battery- Domestic Violence" being there, nor can she get " job training and placement" which she had qualified for with Social Security and Disability until it is removed, according to SSI/DIS Representatives. This is unwarranted, "cruel and unusual punishment" due to it being written, "no due process" existed/exists or was given and with it being left there, Plaintiff has no chance to earn a living. Plaintiff demands it be removed before her unborn child is born, so that he doe not "incur any other further harms" and "his rights are not violated" due to he being a

"infant" and unable to defend himself from such harms. Plaintiff's son, Antonio (now age 19), remains on the East Coast, where he has been since the false arrest and beating took place in 2007. Plaintiff feared for his "well-being" at that time, due to the fact he was a "minor" (15 at time) and elected to have him reside with his father for safety's sake. She decided it best for him, after the LVMPD "falsely arrested" the Plaintiff (Police Officer stating at time to be "Domestic Violence-Verbal Assault") on a charge that doesn't even exist, and confiscated her dog, took her to jail where she was beaten until death, while "no due process" was ever given during or after on "fictitious charge" or the now "Batt/Dom. Violence" on record. Plaintiff has "missed out on over 3 yrs." with her son, with whom she had "primary sole legal custody" of since birth, because of the incidents of 10/11/2007 and 10/12/2007. Plaintiff and Unborn child are set up for further "irreparable harm" with "Battery-Domestic Violence" being left on Plaintiff's Record without "no merit" and must be ordered to be removed immediately.

II. STANDARD OF REVIEW

SEE: FRCP 65 (1)

(1) Notice.

The court may issue a preliminary injunction only on notice to the adverse party.

SEE: FRCP 56 (2)

(2) The judgment sought should be rendered if the pleadings, the discovery and disclosure materials on file, and any affidavits show that there is no genuine issue as to any material fact and that the movant is entitled to judgment as a matter of law.

SEE: "Alabama Binder & Chem. Corp. v. Pennsylvania Industr. & Chem. Corp., 181. A.2d 180, 184 (Pa 1963)"

"Irreparable harm is present if legal damages are uncertain or speculative"

SEE: "West's Encyclopedia of American Law"

Rationale behind Injunctions

This **injunctive** power to restore the status quo ante; that is, to make whole again someone whose rights have been violated, is essential to the concept of fairness (equity). For example, money damages would be of scant benefit to a land owner who wished simply to prevent someone from repeatedly trespassing on his land.

SEE: "Wikapedia, Def."

An **injunction** is an equitable remedy in the form of a court order, whereby a party is required to do, or

to refrain from doing, certain acts. The party that fails to adhere to the injunction faces civil or criminal penalties and may have to pay damages or accept sanctions for failing to follow the court's order. In some cases, breaches of injunctions are considered serious criminal offenses that merit arrest and possible prison sentences.

SEE: "The Free Dictionary.com"

Damages; The purpose of damages is to restore an injured party to the position the party was in before being harmed.

SEE: "Def., Jurisnotes.com"

"the **status quo ante litem** is the situation that existed before the allegedly infringing conduct began."

SEE: Bill of Rights

"..life, liberty and the pursuit of happiness..."

SEE: NRCP 8(a)

it states, "....relief in the alternative or several different types may be demanded."

SEE: Rosenblatt v. Baer, 383 U.S. 75, 92 (1966) (concurring opinion). [418 U.S. 323, 342]

"reflects no more than our basic concept of the essential dignity and worth of every human being - a concept at the root of any decent system of ordered liberty. The protection of private personality, like the protection of life itself, is left primarily to the individual States under the Ninth and Tenth Amendments. But this does not mean that the right is entitled to any less recognition by this Court as a basic of our constitutional system."

SEE: Page 418 U. S. 324- The court HELD...

"a) Because private individuals characteristically have less effective opportunities for rebuttal than do public officials and public figures, they are more vulnerable to injury from defamation. Because they have not voluntarily exposed themselves to increased risk of injury from defamatory falsehoods, they

are also more deserving of recovery. The state interest in compensating injury to the reputation of private individuals is therefore greater than for public officials and public figures." Pp.418 U.S. 343-345.

In... SEE: Gertz v. Robert Welch, INC., 418 U. S. 323 :: Volume 418 :: 1974 ::

Page 418 U. S. 324 ... injury to the reputation of private individuals is therefore greater than for public officials and public figures..

SEE: "Anderson v. Minneapolis", St. P. & S. St. R.R. Co., 146 Minn. 430, 179 N.W. 45 (1920)

When two or more negligent parties, where the consequence of their negligence joins together to cause damages, in a circumstance where either one of them alone would have caused it anyway, each is deemed to be an "Independent Sufficient Cause," because each could be deemed a "substantial factor," and both are held legally responsible for the damages. This is an element of "Legal Cause".

SEE: "Summers v. Tice Rule", See *Summers v. Tice*, 33 Cal.2d 80, 199 P.2d 1 (1948).

Courts have held that in order for each of the defendants to avoid liability for lack of actual cause, it is necessary to hold both of them responsible. And now in a summary form: The general rule is that when two or more defendants are negligent and it cannot be determined as to who caused the injury, it would be unfair to exonerate either from liability. Each defendant has the burden of proving the other was the sole cause of harm. Since neither defendant in this case was able to do so, the court had no choice but to uphold the judgment in favor of the Plaintiff.

SEE: "Hill v. Edmonds", 26 A.D.2d 554, 270 N.Y.S.2d 1020 (1966).

Suppose that two actors' negligent acts combine to produce one set of damages, where but for either of their negligent acts, no damage would have occurred at all. This is two negligence's contributing to a single cause, as distinguished from two separate negligence's contributing to two successive or separate causes. These are "concurrent actual causes." In such cases, courts have held both defendants liable for their negligent acts. Both parties were negligent.

III. FACTS PUT FORTH BY PLAINTIFF TO SUPPORT THIS MOTION AND

1. FACT: Plaintiff resides within the courts jurisdiction.

2. FACT: Defendant(s) resides and/or is otherwise subject to the courts jurisdiction.

3. FACT: Plaintiff is seeking Injunction Rationale to Restore The "Status Quo Litem" Of Plaintiff's Personal And Medical Record Prior to 10/11/2007 And 10/12/2007, pending the full review of the merits of the matter by this Honorable Court which has jurisdiction to do so.

4. FACT: Existence of an imminent likelihood of irreparable harm if the injunction is not issued, because Plaintiff's Medical Records from "UMC", from on or about 10/12/2007 (some documents are dated wrong to, stating 10/13) contain "severely inaccurate and false statements" that are proved to be "NOT TRUE and have No Merit, are "just left there" and can only be repaired by the "entities" who put them there, as stated throughout this Motion and in Plaintiff's Affidavit, **EXHIBIT #1**, attached hereto.

5. FACT: "Critically"needed medical attention is "being delayed", because of the "errs and non factual comments" on Medical Record, which is creating "further threats" to the "health, proper treatment and well being" of Plaintiff and her Unborn Child if the Injunction Rationale is not issued.

6. FACT: An action for money damages alone is insufficient because Plaintiff cannot "just pay" for Personal and/or Medical Record to just be "corrected".

7. FACT: "Severe inaccuracies" that were put on Plaintiff's Record by "UMC" can only be removed by "UMC", as established in this Motion and others prior to.

8. FACT: "False Charge(s) of Battery Domestic Violence" cannot be removed by Plaintiff because it was never constituted as a "charge, she was never formally charged, no "due process" was ever given on the so-said charge at all, statue of limitations ran out and when Plaintiff found out it was even there she was told by "sealing of the records" that it couldn't be removed in that fashion because "the charge" was never followed through to the completion to do that.

9. FACT: The threatened harm to Plaintiff out weighs any substantial harm to the Defendant(s) because: (1)the Plaintiff needs her Record to "Read true to genuine material fact" as it did prior to 2007 to insure proper health care procedures for her and unborn child, (2) to prevent any further implications that the Plaintiff is has or had any legal or illegal addictions ever, (3) to prevent/avoid/eradicate any chance of any attempts of implications, investigations or charges that could be given to Plaintiff used toward "something else" as a qualification or disqualification "just because" the "False Charge(s) of Battery-Domestic

Violence" is listed on her record, even though it is "false".

10. FACT: There is no substantial harm to Defendant(s) by "correcting" what is "wrong and Not True" on Plaintiff's Record, both Medical and Personal, due to the fact that "there is no genuine material fact" to substantiate it /them "being" on her Record in the first place.

11. FACT: The Plaintiff's Rights' within the "Bill of Rights" is affected by her Record being made to say "truths' only": It is "her life, her liberty, her pursuit of happiness...being restored" and does not affect the Defendant(s) in any fashion.

12. FACT: There is no substantial public interest that will be contravened by this Honorable Court granting this "Motion for Injunction Rationale To Restore the "Status Quo Ante Litem... "

13. FACT: Plaintiff has a substantial likelihood of success due to the facts alleged are likely to be proven with what Plaintiff puts forth in this Motion, what has been put in prior Motions and Exhibits, and Affidavit by Plaintiff, with paragraph by paragraph, expressing the necessities that the Record(s) need to be corrected to read "true", and what the "false" is doing/does/has done to Plaintiff's life by being "left incorrect".

Footnote: "elements, qualifications" SEE: Jurisdictionary.com under "Injunctions" Ref. in part, within some Facts..

IV. LEGAL ARGUMENT

Since right after UMC intake on 10/12/2007 and Current, **anytime** the Plaintiff has to "interact" with Dr.'s or people in the field of "Medicine", in Nevada, they "pre-screen" the Plaintiff's Medical Records from 2007 ONLY, (as to when her Medical Record began in this State), and a interrogation issues. Plaintiff is always asked now about her "supposed drug and alcohol" problem/ past problems with. It is so bad, that Plaintiff carries around a "copy of her "entire" medical history (prior to 2007 as well), a copy of the "Lawsuit", the "Photos" of right after the beating AND a copy of the "Disc of the aftermath" with a "portable CD player" (loaned to her by neighbor) with her so that she will at least have "a chance" to discredit what the Defendant(s) added to her records, both medical and main. It usually takes about a half hour to explain

the "sever inaccuracies", show the "individuals" where, further in the medical record that the statements on "drugs and alcohol usage" are FALSE and unfounded (via, Blood work done "**twice**" on 10/12/2007 and comment "that results won't hold up in court". "THEN, the Health Care Provider/Medical Personnel understands it is false reporting and they move forward to address the medical issue at hand. This is becoming such a great concern because when Plaintiff is in ER status, which is "highly probable" with her conditions. Plaintiff will not have time to explain the "sever inaccuracies" on her Records, which will and is putting her and baby at "further risk" when she should be having her "critical care needs **met immediately**". Dr.s' who don't "heed to the truth" or look at "ALL the "Facts, will spend time doing unnecessary tests, wasting precious time, because issue at hand will be "delayed" and not to mention creating"extra bills with additional financial hardship. Some Doctors have already referred to "those false" statements only and taken a completely different route for care, which has taken it's toll on the Plaintiff and her unborn child's overall "well being" and why she carries "all that stuff" previously mentioned, to each and every visit. Plaintiff should not be burdened of having to produce such items to such an extraordinary measure, in order to have her "serious" health issues addressed or even for a "simple" doctor visit. Plaintiff has tried "over and over" again with "no success" to have all of it removed. "Clark County's" "University Medical Center" County Hospital (now to be referred to as "UMC") can have any and all "NEGATIVE COMMENTS" removed from the medical files."UMC" themselves has stated (billing dept.), "They need "Prisoner Health Insurance's (PHS) ORDER / Approval" and are requiring the payment be made by PHS (as they are documented on record to be responsible for those bills). "**BDA**"(Bill Dunbar and Associates) one of many "medical record keeping" companies, (who was used at time of incident by "UMC"- documented on very bottom of "UMC" health records/forms, on issues of consulting and "keeping/logging" their records), that deal in a persons' "Personal Medical Records". They stated to Plaintiff in 11/2009 that "the only way it can be removed is by the hands of who "controls" the Hospital or facility and then either "we" or "their transcriptionists" and informing us of the change, do the removals". The (Prisoner's Health Services) "**PHS / FELONY**" that is on Plaintiff's RECORD was also put their by "UMC", admittedly, because neither "PHS" nor "Clark County Social Services"paid the bills from 10/12/2007 as they were supposed to. "PHS" did not pay the bill because "LV JAIL" told "PHS" not to. It can be removed. Exhibits #16 and #17 , filed 2/5/2010,

put forth by Plaintiff, already provided and "Show EXACTLY" what must be done on in order for the "PHS/FELONY" to be permanently REMOVED from Plaintiff's Record. It is NOT "an issue" that the Plaintiff can have removed by her volition. It must be done by those in Defendant(s) employ, by "Managements" Orders. Furthermore, these "sever inaccuracies" are on Plaintiff's "EHR" (Electronic Health Record) and on "MIB" (Medical Information Bureau, similar type of co. as ERH, but contains "criminal charges" as well) which will, in fact, cause more on going problems for Plaintiff.

On LVMPD Scope/Record, on the matter of the "FALSE" Battery-Domestic Violence" charge(s) on Plaintiff's Record "it was clearly added". (saying "charges" because logged in **2 times** on record). It was "back dated" to 10/11/2007 By LVMPD. "VICTIMS OF CRIME" already **"verified"** that the charge of "Domestic Violence/Battery" was NOT THERE, according to letter dated 6/25/2009, submitted to court, as Exhibit #15 on 12/23/2009 filing. This page reads, "NO POLICE REPORT FOUND". Therefore, the report "discovered" upon paying for Plaintiff's SCOPE didn't EXIST. As it shouldn't have-EVER. She was "only detained". She was told she was not being charged for "anything" and "don't worry about it" by "Colleen Raul, Internal Affairs, on 10/12/2007 at UMC, so it should not even be there. According to "Sealing of Record Procedures", **after being charged**, one must wait 7 years and pay to have it sealed. Again, this does not apply to Plaintiff, as **she was never**, as follows: read any "Miranda Rights", given a phone call, charged, arraigned, made to post bail, released in a "ROR status", never stood in front of a judge on supposed charge at any time-after event or while in custody, made to pay any fines or do any classes/counseling or contacted ever about the matter, pertaining to her , ever again. Therefore, Plaintiff demands that the "FALSE, added charge(s) of "Battery-Domestic Violence" be removed in an expeditiously matter, because it has clearly "no legal reason or merit" to be on Plaintiff's Record and should be granted. Plaintiff can't get hired, ANYWHERE for ANYTHING, due to the Plaintiff's Record having "BATT DOMESTIC VIOL" (exactly as it appears on Scope) on her Record, put there by LVMPD, as stated on the scope itself. And "PHS/FELONY" attached by "UMC" admittedly by "billing" is EQUALLY, if NOT MORE "damaging" (the word "FELONY", as if she was charged and convicted of one). Plaintiff had no choice but to file for Bankruptcy, Chapter 7, due to the "MANY on going" Medical Bills that stemmed from the "false arrest" and "beating" (10/11 and 10/12/2007), causing long-term illnesses. "UMC" being one of many, was listed and filed. The Bankruptcy

went Final in August 2009. By law, it shouldn't be there in that capacity, either. Plaintiff also states in her Notarized Affidavit attached hereto, that UMC is "continually attacking her credit report" in **paragraph #20**.

V. CONCLUSION

Plaintiff should not be deprived NO LONGER, of an opportunity to develop and learn new skills in a occupation of some sort order to provide for her family greater than poverty level. Plaintiff, herself, her son and her "unborn son" are entitled a way to "exist" and not subjected to anymore, "cruel and unusual punishment" or further "irrevivable harms" due to the "FALSE charge(s)" and "sever inaccuracies" being put on her "Permanent Personal Record" and "Medical Record". In both/all of the Records, it is the "thought conveyed", not just the words, that does the harm. Plaintiff should NO LONGER have her and her unborn child's life be put "at risk", by care not given fast enough/properly because of previous "inaccuracies that have no merit" being able to remain on her Medical Record. In it's literal interpretation people in the Field of Medicine and of some sort of "Authority" over Plaintiff's future in one capacity or another, assume that "all" content within Plaintiff's Record(s) is right, but in the broader scope and purpose of the Records, it is not true. Without the removal, the Plaintiff must rely on carrying around documentation "every time" she has to perform not only normal tasks, but more "extrodinary" tasks, while trying to "build a life". Plaintiff says "a life" because her life as she knew it will never be the same. So, in essence, Plaintiff should no longer be deprived of public confidence or esteem all the more just because the "falsifications" exist that could and should be removed. All she gets on a daily and weekly basis, because of the "falsifications" on Record is interrogated and persecuted over and over, for a "not true" charge(s) that was never charged and "non factual" remaining on the record. Having these "nonfactual" items there has done / is doing nothing but "leaving the door open" for anyone and everyone to do more "irreparable" harm, hardships, false accusations toward Plaintiff and creates "excuses" for them to do so. Plaintiff asks this court and the Defendant(s) to "perform the appropriate actions needed" to resolve this/these issues. Plaintiff has gone through almost THREE YEARS of constant abuse, unwarranted punishments, and delays of proper health care as a direct result.

It is not only "unconstitutional", it is flat-out "IN HUMANE". The "situation" now affects "the WELL-BEING of my UNBORN Son" directly. Their is "no legal justification/excuse for that at all", and something can be done right now "keep him safe and ensure" that his life is affected in no way by those "sever inaccuracies"and "false charge(s) that are reported on Plaintiff's Record(s)that have and had "no legal right" being there in the first place.

WHEREFORE, I, Cindy L. Nugent-Davi, Plaintiff and In Proper Person, respectfully requests that the Motion of Injunction Rationale to Restore the "Status Quo Ante Litem" of Plaintiff's Personal and Medical Record, Prior to 10/11/2007 and 10/12/2007 be granted.

DATED: this 17th day of May, 2010.

CINDY L. NUGENT-DAVI

BY: 

Cindy L. Nugent-Davi, PLAINTIFF
In Proper Person
5749 Arrow Tree St.
Las Vegas, NV. 89130-7278
Phone #702-502-0474

CERTIFICATE OF MAILING

Pursuant to FRCP 5(b), I hereby certify that service of the foregoing

MOTIONFOR INJUNCTION RATIONALE TO RESTORE THE "STATUS QUO ANTE LITEM"

OF PLAINTIFF'S PERSONAL AND MEDICALRECORD, PRIOR TO 10/11/2007 AND

10/12/2007 was made this date be depositing a true copy of the same for mailing

at Las Vegas, Nevada, addressed to Defendant(s)' Counsel(s)' as follows:

FOX ROTHSCHILD, LLP.
Attorney: Lisa J. Zastrow
Attorney: Lyssa S. Anderson
3800 Howard Hughes Parkway
5TH Floor
Las Vegas, NV. 89169

AND

DAVID ROGER
District Attorney
CIVIL DIVISION

By: Stephanie A. Barker
Chief Deputy District Attorney
500 South Grand Central Pkwy.
P. O. Box 552215
Las Vegas, Nevada 89155-2215

DATED: this 4th of May, 2010.

CINDY L. NUGENT-DAVI

A handwritten signature in black ink, appearing to read "Cindy L. Nugent-Davi", written over a horizontal line.

Cindy L. Nugent-Davi, PLAINTIFF,
In Proper Person

Exhibit #1

Cindy L. Nugent-Davi
5749 Arrow Tree Street
Las Vegas, NV. 89130
In Proper Person
telephone:(702)-502-0474

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

CINDY L. NUGENT-DAVI

Case No.

Plaintiff,

VS.

2:09-cv-01921-LRH-PAL

CLARK COUNTY, a County existing under the laws of the State of Nevada;; THE LAS VEGAS METROPOLITAN POLICE DEPARTMENT DOE OFFICERS I through X, individually, and in their official capacity; DOES XI through XX, inclusive,

AFFIDAVIT OF CINDY L. NUGENT-DAVI IN SUPPORT OF MOTION FOR INJUNCTION RATIONALE TO RESTORE THE "STATUS QUO LITEM" OF PLAINTIFF'S PERSONAL AND MEDICAL RECORD PRIOR TO 10/11/2007 AND 10/12/2007

Defendants.

STATE OF NEVADA

COUNTY OF CLARK

Cindy L. Nugent-Davi, Plaintiff, In Proper Person, Victim in case, swears all statements submitted within this (6) Page Affidavit and within this entire motion for filing, to be true and correct to the best of my knowledge....

1. I am Cindy L. Nugent Davi, Plaintiff, In Proper Person, a citizen of the United States of America, Resident of Clark County, Nevada and I am also the "Victim" in the Case # 2:09-cv-01921-LRH-PAL. I have the personal knowledge of the events, facts and circumstances set forth in this affidavit and make this affidavit under penalty of perjury.

2. I make this affidavit in support to of my Motion for Injunction Rationale to Restore the "Status Quo Litem" of my Personal and Medical Record PRIOR to 10/11/2007 and 10/12/2007.

3. My health has been on the decline since being beaten to death on 10/12/2007 and being revived at "University Medical Center" (UMC) on that same day.

4. "Severely Inaccurate" statements, false and non-supported allegations were put on my Medical Records and remain, that either were "suggested" by Law Enforcement (documented on

the records themselves) or by Medical Staff, contracted Doctors, and or sub-contracted Doctors, all of which were in the employ of UMC Hospital on 10/12/2007 assigned to handling my medical needs.

5. I have been diagnosed so far, to date (after leaving UMC on 10/12/2007), with "Kidney Renal Progression", "Gran-Mal Seizures" for life (on "Dilantin" for this, which conflicts with pregnancy), suffer from "Post Traumatic Stress Disorder"(due to unjustified attack/ beating on 10/12/2007 at jail), in a "Extremely High Risk Pregnancy"with "Placenta Previa" (which may or may not change throughout the pregnancy) and in need of "physical therapy" for back, hip, neck and left hand.

6. My current Doctors' here in Nevada are still searching for a "Neurologist" who will take me/us on as a patient with the many "variables" and "special needs" that have to be addressed who will diagnose, without fear of a malpractice suit for their decisions in my case.

7. At initial Doctor visits, here in Nevada, I am having to spend too much "unnecessary" time on defending what is "not true" that has been listed on my Medical Records by UMC from 10/12/2007, leading them to believe either I have or had a drug and/or alcohol problem, which delays time for attention to the matters that need to be addressed and critical decisions being made in my case.

8. My Doctors' are "Split" on whether or not to change the seizure medication. Out of the (5): (1) says to change, (1) says not to change and (3) are still undecided.

9. All of the Doctors' here on my case agree that my case is extraordinary, needs "special attention" in which they have never dealt with, nor do they know anyone "locally" who has. And therefore, agree that I would be better "medically served" on the East Coast where more specialists prevail on the subjects' at hand within my case.

10. I am not, nor have I ever had, any addictions/problems with drugs and/or alcohol in my life.

11. I was "never" listed on "ANY" of my Medical or Personal Records anywhere, prior to 10/12/2007, by anyone, as being a drug addict and/or alcoholic, nor was anything ever put on there that their was a possibility, a potential to be or question that I was.

12. The Defendant(s) already stated, "I was a detainee only", therefore the "PRISONER" comments' should be removed from my medical record.

13. The age of "56" NEEDS to be removed from the record. As I get older, this "mistake" can

cause future problems.

14. I do NOT have, nor ever had Asthma, and therefore it should be removed from my medical record.

15. I do NOT have, nor ever had Diabetes, and therefore it should be removed from my medical record.

16. I never signed up for any "case study(ies)" to be done at UMC Hospital on 10/12/2007, nor at any other time or in any other hospital in my life. I did also tell UMC Medical Staff on 10/12/2007 that I DID NOT want any students observing or working on me when I was asked.

17. Statements "that I only FELL" on Medical Record need to be removed, due to NONE of the injuries support that/those statements.

18. Several important medical records were put under "misspelling" of my name on UMC Records, such as my back surgery and neck surgery themselves and were hidden until late fall of 2009, preventing me from getting further medical treatment on those subjects. This also enabled Social Security and Disability (SSI/DIS) the ability to delay my needs. This must be corrected so Doctors do not have to search under two different names.

19. UMC managed to spell my name correctly when they tried to force me to pay the bills of 10/12/2007, that were documented as to be paid by Prisoner's Health Insurance, of which they were obligated to and failed pay.

20. UMC managed to spell my name correctly in continually attacking my credit report and attaching "PHS/FELONY" to my Record. I never committed or was ever convicted of a FELONY, and therefore it MUST be removed.

21. I WANT to give birth on the East Coast, I NEVER stated I was. I am being prevented currently from doing so.

22. I have been under bed rest, especially after the amniocentesis was done. Whether this will continue throughout the pregnancy is yet unknown.

23. Tests on my unborn child's heart begin on 5/10/2010 and the length of time for these tests are unknown pending results.

24. The "irrevocable harm" continues especially with "drug/alcohol" comments and "Battery-Domestic Violence" charge put/left on my record (which I WAS NEVER CHARGED FOR) and "leaves the door open" for "other entities" to abuse, cause malice, harms, hardships, possible further detainment. cause further cruel and unusual punishments in my life and my unborn child's life

detainment, cause further cruel and unusual punishments in my life and my unborn child's life after his birth without any legal, proper cause or merit having ever been proved or founded. For this, the "false-UN TRUE" need to be removed, effective immediately for preventions sake.

25. Due to my "extremes and risks" both medically and what I am currently going through legally, my family chose to seek counsel and are "in conference" with, in Pennsylvania (also where child was conceived) to ensure that no more further "harm" will commence toward me and my child upon it's birth. And that "our" rights remain and are fully intact" to be able to remain a family unit, safe together as it already should be.

26. I was told at jail, by law enforcement, that I was "only being detained to be questioned.

27. Before I left UMC Hospital on 10/12/2007 and I was told by Internal Affairs Rep., Colleen Raul, quote, "Don't worry your not being charged with anything, just get well and good luck".

28. I contacted "Victims of Crime" in late 2007, for some sort of assistance in what happened in jail on 10/12/2007. At the completion of their investigation, they confirmed that their was "NO POLICE REPORT" found, late June 2008. Therefore NO "Battery/Domestic Violence" charge was on my Police Scope/record and it should be removed immediately.

29. Even though hired on 10/22/2008, I was denied employment on 10/27/2008 by "Camacho Industries"(after a month and half of several meetings and interviews process) via telephone, due to when they did their background check "PHS/FELONY" was found ONLY. They contacted me because when they checked my Police Record "NO CHARGES WERE FOUND" and they felt it was "strange". Even so, they could not put me in their employ due to the word "Felony" appearing on my record.

30. From 11/1 to 11/28/2008, in researching and calling several entities, I was put in contact with "Robert Straube, Internal Affairs Rep. I met only 1 time with Mr. Straube in late 12/2008 to address the "PHS/FELONY" issue, as well as "the beating on 10/12/2007". He told me prior, via telephone and at the recorded meeting that their were "NO CHARGES POLICE SCOPE".

31. At the 1 meeting with Mr. Straube, he informed me right away that "the video tape" of me actually being beaten in the cell was "long gone" and that if I wanted the "PHS/FELONY" comment removed I would have to take it up with UMC Hospital. But assured me that their were "NO CHARGES"

on my Police Scope for 10/12/2007 and he would be in touch.

32. I have already submitted how the "PHS/FELONY" (MUST BE/ONLY WAY) it can be removed in my filing on 2/5/2010- (Exhibit#16 and #17). It has to be done by the Defendant(s).

33. I received a "Notice of Claim" letter from Mr. Straube on 1/4/2009, and so called him. He said he was to offer me \$155,000 and said, quote, "I highly suggest you take it and go away". That was the last I spoke to him.

34. I was only able to obtain one temporary job while here in Nevada with the "Falsifications being on my Record(s)". It was ONLY because a "acquaintance" suggested me and because it was located on the "Indian Reservation". And when I told them what I knew so far at that time what was on my Record, they told me that they didn't care and it did not matter due to the business being on Reservation Territory. They told me I had to pass a Drug and alcohol test, which I did pass very easily since I do not do drugs or drink alcohol.

35. I applied for a at home, on-line disabled persons job with "Sitel" during of 8/ and 9/2009. Passed all tests, was qualified and then was given notice they could not hire me because of "PHS/FELONY" on my Record, as well as a charge on my Police Scope/Record stating "Battery-Domestic Violence".

36. I then proceeded to obtain a "Police Scope" by purchase in Fall 2009 and saw that a charge(s) of "Battery-Domestic Violence" was "put on" my Record (I say charges because it is listed TWICE on scope). I was never formally charged, nor did I have any due process, saw a judge, made or assigned to do any classes, be made to pay any fines--NOTHING. I was told I WASN'T CHARGED. Therefore, this "falsification" should be removed, effective immediately to prevent even further harm.

37. I was approved for the "Ticket to Work Program" sponsored by SSI/DIS in 2/2010, which ables disabled individuals to be trained in a new occupation that can fit in with their disabilities as well as job placement. But I called them and they told me "they cannot help me and I cannot enroll" until the "PHS/FELONY is removed and the "FALSE Charge(s)" are removed according to the Representatives of the Work Program.

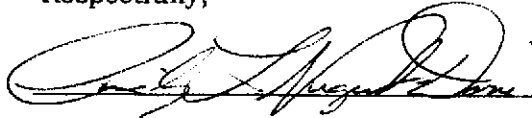
38. I contacted Legal Representatives and Attorneys of all types on "BOTH" Coasts and they **all** stated that their is "nothing that I can do or they can do, to remove" because DUE PROCESS OF ANY KIND in part way or it's entirety was NEVER COMPLETED. Therefore, the Defendant(s) need to be ordered to remove the "falsifications" from my records.

39. I had to file Bankruptcy because of the events of 10/11 and 10/12/2007 and have not only lost "over 20 years of PERFECT credit (never late ever) and mostly all my hard worked for possessions

but my good name. The credit of the past can't be repaired, but "ERH"- Electronic Health Records and "MIB"-Medical Information Bureau, both of them report, in all or in part, to credit bureaus, health insurance, life insurance and any other entities which have a "common" interest in your health information, credit information and criminal history. So if the "falsifications" on my Record are not corrected, I, nor my family members ever get to live without additional fear or the chance attempt to recover from what all stems from the events of 10/11 and 10/12/2007.

40. I am not and was never deemed a criminal, a drug addict, an alcoholic or a bad credit risk prior to this. Nor is there any merit, justification, reason, explanation for any I have discussed to be left on my Records', anywhere. By the Records being corrected made to read as the "TRUTH and nothing but the Truth" will create no harm on any of the Defendant(s) or their records. So there is no reason why they should not be made to correct them immediately.

Respectfully,



Cindy L. Nugent-Davi, Plaintiff, In Proper Person

*Indy Nevada
County of Clark*

SUBSCRIBED AND SWORN BEFORE ME this
3 day of May, 2010.

CCJ

NOTARY PUBLIC in and for said County and State
My Commission Expires: *April 5, 2011*

